

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

HARRY E. HAMILTON,

Plaintiff,

v.

ADOLPH R.O. WRIGHT, *et al.*,

Defendants.

NO. 3:19-CV-1036

(JUDGE CAPUTO)

(MAGISTRATE JUDGE ARBUCKLE)

ORDER

NOW, this 13th day of November, 2019, upon review of the Report and Recommendation of Magistrate Judge William I. Arbuckle (Doc. 15) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) The Report and Recommendation (Doc. 15) is **ADOPTED in part as stated herein**, and the motions to dismiss filed by Defendant State Farm Fire and Casualty Company (Doc. 9) and Defendant Adolph R.O. Wright (Doc. 10) are **GRANTED** for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).¹
- (2) The matter is **RECOMMITTED** to Magistrate Judge Arbuckle for further proceedings.



A. Richard Caputo
United States District Judge

¹ I decline to adopt the recommendation that the claims against Defendants State Farm and Wright be dismissed for failure to prosecute pursuant to *Poulis v. State Farm Fire & Cas. Co.*, 747 F.2d 863 (3d Cir. 1984). Instead, the motions to dismiss are granted for failure to state a claim pursuant to Rule 12(b)(6).